

That in accordance with the Resolution of the City Council adopted October 17, 1989 pertaining to the entering into contracts for the disposal of forfeited property under the Code of Criminal Procedure, the Chief of Police is authorized to enter into an agreement with the District Attorney of the 34th Judicial District of Texas pertaining to the asset forfeiture proceedings concerning properties located at 6295 Alameda, 6315 Alameda and 6345 Alameda in El Paso, Texas.

[Police Department, Interim DC Cross, (915) 564-7039]

Back up memo:

May 20, 2004

To: City Clerks Office

From: Interim DC Cross

Subject: Addition to City Council Agenda – May 25, 2004

The following is an explanation for the items on the City Council Agenda regarding the Police Department:

This agreement will allow the Police Department and the 34th Judicial District of Texas to work together for the seizure of the real properties located at 6295 Alameda, 6315 Alameda and 6345 Alameda.

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That in accordance with the Resolution of the City Council adopted October 17, 1989 pertaining to the entering into contracts for the disposal of forfeited property under the Code of Criminal Procedure, the Chief of Police is authorized to enter into an agreement with the District Attorney of the 34th Judicial District of Texas pertaining to the asset forfeiture proceedings concerning properties located at 6295 Alameda, 6315 Alameda and 6345 Alameda in El Paso, Texas.

ADOPTED this 25th day of May 2004.

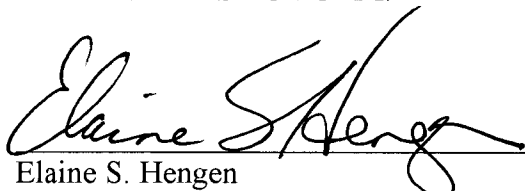
CITY OF EL PASO

Joe Wardy, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:


Elaine S. Hengen
Assistant City Attorney

THE STATE OF TEXAS)
)
CITY OF EL PASO)

AGREEMENT

This Memorandum of Understanding ("Agreement") is entered into between the District Attorney for the 34th Judicial District of Texas, hereinafter referred to as "Agent for the State," and the El Paso Police Department, hereinafter referred to as "Law Enforcement Agency."

WHEREAS, the parties have entered into a local agreement regarding forfeited property under the Texas Code of Criminal Procedure on or about October 18, 1989; and

WHEREAS, the parties are presently working on the seizure of the real properties located at 6295 Alameda, 6315 Alameda and 6345 Alameda, and because the seizure will involve special operations conducted by the two agencies and extraordinary costs and expenditures, the parties have determined that the existing local agreement should not apply for the sharing of assets and expenditures for these properties and a new agreement applicable only to this seizure of these properties should be entered into.

NOW, THEREFORE, it is mutually agreed as follows:

1. This agreement is entered into in accordance with Article 59.06 of the Code of Criminal Procedure, and all seizures, accounting of proceeds and provisions for disposition of property contained in Chapter 59 shall be followed by the parties.
2. With respect to the management of the properties, the Agent for the State will be responsible for taking all actions necessary for the maintenance, liquidation and disposition of the properties (this includes the responsibility for insuring the properties). The disposition of the properties may be made in any manner permitted by law. However, in the event that any of the properties would be sold by entering into a listing agreement with a licensed real estate broker; any such sale will be for cash, and any sale commission paid to such a broker will be paid from the proceeds of the sale of the property, but will not (unless otherwise agreed to in writing by the District Attorney and the Chief of Police) exceed seven per cent of the proceeds of such a sale.
3. The costs and expenses for the seizure and asset forfeiture proceedings shall be shared by both parties. The Agent for the State shall be responsible for 70% of the costs and expenses and the Law Enforcement Agency shall be responsible for 30% of the costs and expenses. Such costs and expenses shall include the costs noted in paragraph 2 above as well as the costs incurred for the hiring of outside counsel and expenses of litigation, but shall not include any costs for labor or work performed by employees or the use of vehicles or other equipment owned by the parties.

4. The proceeds from any sale, or any insurance policy reimbursement for any covered conversion of the property, will be 70%-30% with the 70% going the District Attorney's Office for the 34th Judicial District of Texas. In the event the Agent for the State receives any proceeds for one of the properties and not the other, the Agent for the State will use the same to cover all current costs incurred on all properties, then either distribute any balance left over to the respective agencies, or hold same in his trust account until a final distribution, as set out in Chapter 59 of the Code of Criminal Procedure.
5. In the event that the Agent for the State receives information that the costs and expenses related to the hiring of outside counsel and their costs of litigation will exceed \$40,000, the Agent for the State shall immediately notify the Chief of Police and provide him with an estimate of the additional costs for the necessary additional legal work and litigation expenses before they are incurred.
6. The Agent for the State shall provide periodic status reports on the progress of the seizure and litigation to the Chief of Police and shall immediately apprise the Chief of any significant developments in the case involving these properties.
7. This agreement may be canceled or modified by mutual consent of the parties hereto in writing and shall automatically terminate upon the final distribution of proceeds or settlement of any costs owed between the parties.

SIGNED AND AGREED TO this ____ day of _____, 2004.

JAIME ESPARZA
DISTRICT ATTORNEY
34TH JUDICIAL DISTRICT

EL PASO POLICE DEPARTMENT

RICHARD D. WILES
INTERIM CHIEF OF POLICE